

HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No. 24982 of 2006

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Between:
K. Sreeramulu & another

...Petitioners

And
A.P.Pollution Control Board,
Guntur & others

....Respondents.

:: O R D E R ::

Counsel for the petitioners : Shri P. Nageswara Sree

Counsel for respondent No.1 : Shri S.V. Bhatt

Counsel for respondent No.2 : Government Pleader for Revenue

Counsel for respondent No.3 : Shri S. Nageswara Reddy

Counsel for respondent No.4 : Shri Satyanarayana Nimmagadda

02.04.2007

Per G.S. SINGHVI, CJ

In this petition, the petitioners have prayed for issue of a mandamus to the official respondents to shift the hardware and furniture unit run by respondent No.4 from the residential area of Kaviraja Park Road, Gandhi Nagar, Tenali, Guntur District.

There is no dispute between the parties that respondent No.4 is engaged in the manufacturing activity in House No.2-7-29 and 2-7-29/1, which falls within the residential area of Tenali. It is also not in dispute that the action initiated by Tenali Municipality for closure of the unit of respondent No.4 was frustrated on account of the order of injunction passed by I Additional Junior Civil Judge, Tenali in I.A.No.615 of 2006 (O.S.No.378 of 2006).

On 22-2-2007, the Court, after taking cognizance of the fact that I.A.No.615 of 2006 filed by respondent No.4 was still pending, passed the following order:

“Sri D.Ravisankara Rao for Sri P.Nageswara Sree for the petitioners.
Sri S.V.Bhatt for respondent No.1.
Sri S.Nageswara Reddy for respondent No.3.
Sri Satyanarayana Nimmagadda for respondent No.4.

In this petition, the petitioners have prayed for issue of a mandamus to the official respondents to shift hardware and furniture unit run by respondent No.4 in house bearing Nos.2-7-29 and 2-7-29/1 situated at Kaviraja Park Road, Gandhi Nagar, Tenali.

In the counter affidavit dated 31.12.2006 filed by Sri P.Viswanadham, Commissioner, Tenali Municipality, it has been averred that the unit of respondent No.4 is situated in a residential area and that action taken by the Municipality for closure of the unit was frustrated on account of the pendency of the suit for injunction filed by respondent No.4.

Learned counsel for respondent No.4 says that the trial court has passed an order of injunction in favour of his client.

In view of the above fact situation, we direct I Additional Junior Civil Judge, Tenali to

positively dispose of I.A.No.615 of 2006 (O.S.No.378 of 2006) filed by respondent No.4 within a maximum period of four weeks from the date of receipt of copy of this order.

Put up on 29th March, 2007.

While adjourning the case, we deem it proper to take cognizance of the statement made by Sri Satyanarayana Nimmagadda, learned counsel for respondent No.4 that petitioner No.2 is also running an industrial unit within the residential area of Tenali Municipality. According to Sri Satyanarayana, large number of other units are also operating within the residential area of Tenali Municipality. If that be so, the Municipal authorities are expected to take action for closure of all industrial units operating within the residential area. However, this observation shall not be construed as a mandate for taking action without complying with the relevant provisions of the Andhra Pradesh Municipalities Act, 1965.”

On the next date of hearing i.e. 29.03.2007, the Court noted the statement made by the learned counsel for respondent No.4 that the I Additional Junior Civil Judge has not passed any order after 22-2-2007, and issued the following direction:

“Shri P.Nageswara Sree for the petitioners.

Shri Satyanarayana Nimmagadda for respondent No.4.

By an order dated 22.2.2007, this Court directed I Additional Junior Civil Judge, Tenali to positively dispose of I.A.No.615 of 2006.

Learned counsel for respondent No.4 gave out that the concerned court did not pass any order after 22.2.2007. According to him, injunction application was closed on 21.7.2006. For us, it is impossible to comprehend that an officer subordinate to the High Court could muster courage to ignore the direction given by the Court.

Put up on 2.4.2007.

I Additional Junior Civil Judge, Tenali is directed to send his explanation in writing within 24 hours whether or not he has finally disposed of I.A.No.615 of 2006 and if not, why action should not be ordered to be initiated against him on administrative side.”

Registrar (Judicial) has placed before us the response of the officer concerned, perusal of which shows that copy of order dated 22-2-2007 was received by the officer on 24-2-2007 and after issuing notice to the parties, she disposed of the injunction application on 07-3-2007. The reply sent by the officer is taken on record.

The above narration of the facts clearly shows that the statement made by learned counsel for respondent No.4 on 29-3-2007 was per se false and misleading. If the learned counsel had not made misleading statement, the Court would not have passed order dated 29-3-2007.

At this stage, Shri Satyanarayana Nimmagadda, learned counsel for respondent No.4 gave out that the statement was made by him on 29-3-2007 under a mistake of fact. Learned counsel further stated that his client has already closed the unit at the site in question.

Shri S. Nageswara Reddy, learned counsel for respondent No.3 stated that action has already been initiated against all the units operating within residential area of Tenali and appropriate orders for closure thereof will be passed after following the procedure prescribed by law.

We have considered the entire matter. Ordinarily, we would have taken serious view of the conduct of respondent No.4 and initiated proceedings against him under the Contempt of Courts Act, 1971, but, in view of the statement made by learned counsel for respondent No.4, we refrain from issuing notice to his client and dispose of the writ petition as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

02.04.2007
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